IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

Civil Revision No.1486 of 1985

Date of Decision: 22.11.2006

Santa Singh

Petitioner

versus

Union of India and others

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

Present: Shri Vinod Kumar Kataria, Advocate for the petitioner
Shri S.S.Chaudhary, Advocate for the respondents

Jasbir Singh, J. (Oral)

This revision petition has been filed against the order dated 11.2.1985, vide which, application of the petitioner, moved under Section 18 of the Land Acquisition Act, 1894 (in short the Act), for enhancement of compensation, was dismissed, being time barred.

It is not in dispute that the land of the petitioner was acquired way back in the year 1974, by invoking provisions of the Act. It was case of the petitioner that after receiving compensation under protest, he had moved an application to the Collector, for making reference under Section 18 of the Act. When no reference was made, he was compelled to file CWP No.2521 of 1982, which was disposed of by this Court on 23.2.1983, by passing the following order:-

> "*Accordingly, we allow these petitions and direct that on a proper application (precisely detailing their claims of having filed applications under section 18 of the Act) made by writ petitioners to the Collector, the latter shall refer the same to the District Court, which will then proceed to decide the dispute between the parties and find out whether the stand of the petitioners herein is correct or otherwise. In the event of the matter being decided in favour of the writ petitioners, the District Court would inevitably proceed to try and adjudicate on the reference under Section 18 of the Act."*

In compliance to the order, referred to above, the petitioner moved an application, which was referred to the competent Court, for adjudication. As per orders passed by this Court, referred to above, the Court was to decide the question, as to whether the petitioner had moved an application under Section 18 of the Act, as alleged by him or not. The Court below gave ample opportunity to the petitioner, to prove above mentioned fact. On pleadings of the parties, following preliminary issue was framed:-

> *"Whether the claimants had made the application for reference to this Court within time, to the Collector? OPA"*

In evidence, the petitioner got recorded his statement. The same was rebutted by the department, the Naib Tehsildar appeared in the witness box and stated that no such application was moved by the petitioner. It was contention of the petitioner that he had moved application, alongwith many others, on 26.6.1975. However, none of the co-villagers was brought into the witness box, to support the above mentioned fact. No other

evidence was brought on record to prove that any such application was moved. The decision rendered in the case of other co-villagers, who were similarly situated, was also not brought on record, to show that application under Section 18 of the Act, in fact, was made by the petitioner. The petitioner, after conclusion of trial, moved one application under Order 18 Rule 17-A CPC, to lead additional evidence. In that application, prayer of the petitioner was to allow him to summon and produce the receipt register, maintained by the respondents, to show that he had moved an application, as alleged by him. That application was dismissed vide order dated 8.2.1985. Before this Court also, it was contention of counsel for the petitioner that the petitioner, in fact, had moved an application, for enhancement of compensation and the same was entered in the receipt register. Keeping in view said contention, following order was passed on 1.11.2006:-

> "*Petitioner is owner to the extent of half share in land measuring 109 kanals 5 marlas. The above said land, alongwith a huge chunk of land, was acquired by the respondents, in the year 1974. It is contention of counsel for the petitioner that after passing of the award, the petitioner had moved an application on 26.6.1975 for enhancement of compensation under Section 18 of the Land Acquisition Act, 1894 before the Special Land Acquisition Collector at Jalandhar. Application of the petitioner, to lead additional evidence, to summon receipt register of the officer, referred to above, was rejected on 8.8.1985.*
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> *The petitioner is a land owner, whose land was acquired way back in the year 1974. Even by now, he has failed to get amount of enhanced compensation for the*

acquired land, which already stood paid to the other land owners.

In the interest of justice, counsel for the respondents is directed to produce receipt register of the Special Land Acquisition Collector, Jalandhar from April 1975 to August 1975, to verify averment made by the petitioner."

In compliance to the order, photocopy of the receipt register has been produced and on perusal thereof, it transpires that there exists no entry regarding application moved by the petitioner on 26.6.1975.

The Court below, after noticing evidence, as led by both the parties, has observed thus:-

"*The onus of the said preliminary issue was upon the claimants to prove that they had filed the application for reference before the Special Land Acquisition Collector at Jullundur, intimate, but to disclose that onus no cogent evidence has been brought on the record. The solitary statement of Banta Singh claimant in this respect cannot be relied upon, particularly when in rebuttal there is the unequivocal testimony of Shri Hari Singh, Naib Tehsildar, as R.W.1 that no such application of the claimants was received in the office of the Special Land Acquisition Collector, Jullundur. His testimony is based on record as all the 75 applications received for reference under section 18 of the Act in the office of the Special Collector are mentioned in the letter, copy of which is Ex.R.1 and therein no application dated 26.6.1975 of the present claimants finds mention. The learned Government Pleader submitted that the Award was given by the Special Land Acquisition Collector,*

Jullundur, on 28.5.1975 and the application for reference under section 18 of the Act could be made by the land-owners within six weeks, if the claimant was present at the pronouncement of the award and within six months from the date of Award if the claimant was absent at the time of the making of the award. So, the learned Government Pleader submitted that within the stipulated period no application for reference under section 18 of the Act was filed by the present claimants before the Special Land Acquisition Collector, Jullundur. The earliest application filed by the claimants through their counsel Shri Vinod Kumar Kataria is dated 30.3.1983 and was received in the Office of the Collector, Jullundur, on 11.4.1983, which is hopelessly barred by limitation. The allegations of the claimants that they had earlier filed the application for reference of their claim under Section 18 of the Act before the Special Land Acquisition Collector, Jullundur, on 26.6.1975, has not been substantiated on the record. The claimants have failed to prove that, in fact, they had filed the application dated 26.6.1975 before the Special Land Acquisition Collector, Jullundur. The present application dated 30.3.1983, was entertained by the Special Land Acquisition Collector and reference was made to this Court u/s 18 of the Act as per the order of the Hon'ble High Court dated 23.2.1983, since the filing of the application dated 26.6.1975 has not been proved on the record by the claimants by any cogent evidence, so this application for enhancement of compensation filed by the claimants is barred by time.

Accordingly, the preliminary issue is decided against the claimants."

This Court feels that in view of the facts noticed by the Court below and as mentioned in earlier part of this order, no case is made out for interference.

Dismissed.

November 22, 2006 **(Jasbir Singh)**
gk **Judge**